

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

IRVIN TOVAR,

Petitioner,

3:15-cv-00938-SU

v.

**FINDINGS AND
RECOMMENDATION**

MARION FEATHER,

Respondent.

SULLIVAN, Magistrate Judge.

Petitioner, a federal inmate housed by the BOP at FCI Sheridan, filed a petition under 28 U.S.C. § 2241 challenging a disciplinary sanction which resulted in the imposition of a sanction disallowing 41 days of good conduct time and forfeiting 30 days of non-vested good conduct time. Petitioner was also removed from the RDAP and reincarcerated at FCI, Sheridan.

The record reflects that on September 22, 2015, the BOP expunged petitioner's incident report, restoring 41 days of good conduct time and 30 days of non-vested good conduct time. As a result, petitioner's release date was advanced from December 6, 2015, to October 5, 2015, and petitioner is no longer in the physical custody of the BOP.

Because the incident report he challenges has been expunged and the impact to his release date has been reversed, petitioner's claims in this proceeding are moot.

Petitioner's Petition (#2) should be denied as moot. The Clerk of the Court should be directed to enter a judgment dismissing this proceeding with prejudice.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the

factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 1st day of December, 2015.

/s/ Patricia Sullivan

Patricia Sullivan
United States Magistrate Judge